

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF ADOPTION
RULE I pertaining to the apprentice)
hunter certificate)

TO: All Concerned Persons

1. On June 25, 2015, the Fish and Wildlife Commission (commission) published MAR Notice No. 12-444 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 791 of the 2015 Montana Administrative Register, Issue Number 12.

2. The commission has adopted NEW RULE I (ARM 12.3.187) as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

NEW RULE I (ARM 12.3.187) APPRENTICE HUNTER CERTIFICATE

(1) through (2)(b) remain as proposed.

(3) Apprentice hunters 15 years of age or younger are allowed to hunt during any specified statewide youth season as provided in the regulations.

AUTH: 87-2-810, MCA

IMP: 87-2-810, MCA

3. The commission has thoroughly considered the comments received. A summary of the comments received and the commission's responses are as follows:

Comment 1: Multiple comments supported the rule language as proposed.

Response 1: The commission appreciates your participation in this rule making process.

Comment 2: Two comments stated background checks should be required for all mentors because hunter education instructors are required to pass a background check.

Response 2: Hunter education instructors are volunteers in an official department capacity and background checks are complete pursuant to department policy. Mentors are not department volunteers and are required to be family members or designated as a mentor by a parent or guardian. It is the parent or guardian who is responsible for determining who is an appropriate mentor.

Comment 3: Several comments stated the mentor should not be allowed to carry a firearm with an apprentice hunting.

Response 3: The legislature considered restricting the mentor from hunting when accompanying an apprentice and those proposed amendments to the bill failed. Due to this, the commission believes the restriction is outside the scope of its rulemaking authority.

Comment 4: Several comments stated that mentors should be required to complete a hunter education course or a mentor certification course.

Response 4: Montana statute, 87-2-105, MCA, states hunter education is not required for any person born before January 1, 1985. Further education or certification requirements are outside the scope of the commission's rulemaking authority. It is the responsibility of the parent or guardian to ensure that the apprentice is accompanied by an appropriate mentor.

Comment 5: Eight comments stated sight and sound needed to be specifically defined as a measured distance.

Response 5: Defining sight and sound with specific distances would be difficult to determine, manage, and enforce.

Comment 6: One comment stated a mentor should be able to have more than one apprentice. For example, a father with two children should be able to mentor both children.

Response 6: The commission limited mentors to accompany only one apprentice at a time. A mentor may have more than one apprentice in the field but only one can be hunting.

Comment 7: Three comments stated a mentor should not be able to become a mentor if they have a fish and game violation.

Response 7: The law requires the mentor to have a current hunting license which eliminates anyone who has lost their hunting privileges due to a fish and game violation. Any further restriction is outside the scope of this rulemaking process.

Comment 8: The Department of Fish, Wildlife and Parks (department) received several questions regarding apprentice hunter eligibility to hunt during statewide youth hunts. The department recommended language clarifying that age-specific apprentice hunters were eligible to hunt during statewide youth hunts.

Response 8: The commission adopted the rule with additional language providing clarification.

/s/ Aimee Fausser
Aimee Fausser
Rule Reviewer

/s/ Dan Vermillion
Dan Vermillion
Chairman, Fish and Wildlife Commission

Certified to the Secretary of State September 14, 2015.